

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 15063 of 2003****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
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 - 5 Whether it is to be circulated to the civil judge ?

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DIVISIONAL CONTROLLER G S R T C - Petitioner(s)

Versus

ISHWARBHAI HIRALAL PARMAR - Respondent(s)

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Appearance :

MS MONALI H BHATT for Petitioner(s) : 1,
MR NILESH A PANDYA for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner S.T Corporation has challenged the legality of the award dated 29th March, 2003. The respondent was engaged as a

conductor by the petitioner corporation. On 17/1/1996 when the respondent was discharging his duties his bus was checked by the checking squad. It was found that he had committed irregularities. Fare was collected from some of the passengers and wrongly punched tickets were issued. Way bill was also manipulated. It was further found that though fare was collected from four passengers at the rate of Rs. 18/- per person they were issued tickets of lesser denomination. On the basis of these charges a departmental inquiry was conducted against him. Eventually by order dated 24th July, 1996 he was dismissed from service. The workman challenged his dismissal before the Labour Court, Bharuch. The Labour Court observed that it is possible that there was misconduct on the part of the workman in issuing tickets of lesser denomination. It was further observed that it is not conclusively proved whether there was dishonest interest on the part of the conductor or it was a mere misconduct. It was also observed that it is possible that the passengers might have lost the tickets of full fare issued to them. On the basis of these observations the Labour Court set aside the dismissal order and directed that the workman will be reinstated in service as a fresh employee without any past wages or other benefits.

2. The conclusions of the Labour Court are not sustainable. The petitioner had proved the charges against the workman through a validly conducted departmental inquiry. No grievance was made with respect to the legality of the inquiry before the Labour Court. The conclusions arrived at during the course of the inquiry which were based on evidence on record could not have been and ought not to have been interfered without there being strong rebuttal evidence. The observations of the Labour Court were not borne out from the material on record. There was nothing to suggest that the workman issued tickets of lesser denomination by mistake or that the passengers lost the tickets of full fare given to them. When charges are held to have been proved during the course of departmental inquiry on the basis of evidence on record the Labour Court could not have set aside or brushed aside such conclusions without there being strong reasons.

2.1 It may be noted that the workman had put in only about 6 years of service when the above incident took place. The default card of the workman was produced before the Labour Court and is also produced before this

Court. It shows that in a short span of 6 years the workman has committed as many as 27 proved misconducts. Large number of these proved charges pertain to carrying ticketless passengers. In that view of the matter and in view of the gravity of the charges proved against the petitioner there was no question of showing any leniency. On this ground also the Labour Court erred in interfering with the quantum of punishment.

3. In the result petition is allowed. Impugned award of the Labour Court is set aside. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)

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